

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD ARTHUR KIRKHAM,

Plaintiff,

v.

CITY OF BELLINGHAM, et al.,

Defendants.

Case No. C24-1625-DGE-SKV

ORDER DIRECTING PERSONAL
SERVICE BY UNITED STATES
MARSHAL

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding with this action *pro se* and *in forma pauperis*. The Court, having reviewed Plaintiff's Complaint, Dkt. 4, and response to the Court's Order to Show Cause, Dkts. 7 & 9, hereby ORDERS as follows:

(1) Service by United States Marshal

The United States Marshal shall personally serve named Defendant City of Bellingham by delivering copies of the summons and complaint, and copies of this Order, to the Chief Executive of the City of Bellingham in accordance with Rule 4(j)(2) of the Federal Rules of Civil Procedure. The Clerk shall issue summons and assemble the necessary documents to affect this personal service.

1 (2) Response to Complaint

2 Within **twenty-one (21) days** after service, defendant(s) shall file and serve an answer or
3 a motion directed to the complaint, as permitted by Rule 12 of the Federal Rules of Civil
4 Procedure.

5 (3) Filing and Service by Parties, Generally

6 All attorneys admitted to practice before this Court are required to file documents
7 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,
8 www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF.
9 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original
10 with the Clerk. All filings, whether filed electronically or in traditional paper format, must
11 indicate in the upper right-hand corner the name of the magistrate judge to whom the document
12 is directed.

13 Any document filed with the Court must be accompanied by proof that it has been served
14 upon all parties that have entered a notice of appearance in the underlying matter.

15 (4) Motions, Generally

16 Any request for court action shall be set forth in a motion, properly filed and served.
17 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
18 part of the motion itself and not in a separate document. The motion shall include in its caption
19 (immediately below the title of the motion) a designation of the date the motion is to be noted for
20 consideration upon the Court's motion calendar.

21 The motion shall be noted in accordance with LCR 7(d). Motions including stipulated
22 and agreed motions, motions to file over-length motions or briefs, motions for reconsideration,
23 joint submissions pursuant to the optional procedure established in LCR 37(a)(2), motions for

1 default, requests for the clerk to enter default judgment, ex parte motions, motions to recuse, and
2 motions for a temporary restraining order shall be noted for consideration on the day they are
3 filed. LCR 7(d)(1). Other non-dispositive motions shall be noted for consideration no earlier
4 than 21 days from the date of filing. LCR 7(d)(3). All dispositive motions, and motions such as
5 a motion seeking a preliminary injunction or a motion directed toward changing the forum, shall
6 be noted for consideration no earlier than 28 days after filing. LCR 7(d)(4).

7 For electronic filers, any opposition to a non-dispositive motion shall be filed and
8 received by the moving party no later than 15 days after the filing date of the motion, and any
9 reply shall be filed and received by the opposing party no later than 21 days after the filing date
10 of the motion. LCR 7(d)(3). Any opposition to a dispositive motion by an electronic filer shall
11 be filed and received by the moving party no later than 21 days after the filing date of the motion
12 and any reply shall be filed and received by the opposing party no later than 28 days after the
13 filing date of the motion. LCR 7(d)(4).

14 If a party (i.e. a *pro se* litigant and/or prisoner) serves an opposition by mail, the deadline
15 for filing and serving such opposition shall be 3 days earlier than the deadlines provided in LCR
16 7(d)(3) and 7(d)(4).

17 (5) Motions to Dismiss and Motions for Summary Judgment

18 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil
19 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil
20 Procedure should acquaint themselves with those rules. As noted above, these motions shall be
21 noted for consideration no earlier than 28 days after filing.

22 Defendants filing motions to dismiss or motions for summary judgment are advised that they
23 MUST serve a *Rand* notice concurrently with motions to dismiss and motions for summary

1 judgment so that *pro se* prisoner plaintiffs will have fair, timely and adequate notice of what is
 2 required of them in order to oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir.
 3 2012). The Ninth Circuit has set forth model language for such notices:

4 A motion for summary judgment under Rule 56 of the Federal Rules of
 5 Civil Procedure will, if granted, end your case.

6 Rule 56 tells you what you must do in order to oppose a motion for summary
 7 judgment. Generally, summary judgment must be granted when there is no
 8 genuine issue of material fact – that is, if there is no real dispute about any
 9 fact that would affect the result of your case, the party who asked for
 10 summary judgment is entitled to judgment as a matter of law, which will
 11 end your case. When a party you are suing makes a motion for summary
 12 judgment that is properly supported by declarations (or other sworn
 13 testimony), you cannot simply rely on what your complaint says. Instead,
**you must set out specific facts in declarations, depositions, answers to
 interrogatories, or authenticated documents, as provided in Rule 56(e),
 that contradict the facts shown in the defendant's declarations and
 documents and show that there is a genuine issue of material fact for
 trial. If you do not submit your own evidence in opposition, summary
 judgment, if appropriate, may be entered against you. If summary
 judgment is granted, your case will be dismissed and there will be no
 trial.**

14 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added). Defendants who fail to
 15 file and serve the required *Rand* notice on plaintiff may have their motion stricken from the Court's
 16 calendar with leave to re-file.

17 (6) Junior Attorneys

18 The Court encourages opportunities for junior attorneys and Rule 9 licensed legal interns
 19 (accompanied and supervised by a more experienced attorney) to appear and argue in Court.
 20 Requests for leave for Rule 9 interns to argue in Court will be freely granted, and the Court may
 21 permit multiple attorneys to argue for one party if this creates an opportunity for junior attorneys
 22 to participate.

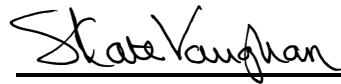
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(7) Direct Communications with District Judge or Magistrate Judge

No direct communication is to take place with the District Judge or Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

(8) The Clerk is directed to send copies of this Order and of the Court's *pro se* instruction sheet to plaintiff. The Clerk is further directed send a copy of this Order and a courtesy copy of the complaint to the City of Bellingham City Attorney, by first-class mail.

Dated this 29th day of January, 2025.

A handwritten signature in black ink, reading "S. Kate Vaughan", is written over a solid black horizontal line.

S. KATE VAUGHAN
United States Magistrate Judge